

AMENDED IN ASSEMBLY JUNE 28, 2007

AMENDED IN SENATE APRIL 17, 2007

SENATE BILL

No. 1017

Introduced by Senator Perata

February 23, 2007

An act to ~~amend Section 331 of, and to add Section 378.5 to, add~~ *Section 2829 to the Public Utilities Code, relating to electricity.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1017, as amended, Perata. ~~Municipal utility districts: East Bay Municipal Utility District: electricity generation: self-service wheeling: generation.~~

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. ~~The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that electrical corporations, among other entities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year. Existing law permits a private energy producer, as defined, to generate electricity not generated from conventional sources, as defined, solely for his or its own use or the use of its tenants, or generating electricity to or for any electrical corporation, state agency, city, county, district, or an association thereof, but not the public, without becoming a public utility subject to~~

the general jurisdiction of the commission. Existing law provides for interconnection to the electric transmission and distribution system by a private energy producer and for payment of just and reasonable compensation to the electrical corporation for transporting the electricity generated by the private energy producer over the transmission and distribution system of the utility.

This bill would require every electrical corporation that owns and operates transmission and distribution facilities that deliver electricity at one or more locations to the East Bay Municipal Utility District (EBMUD), upon request by EBMUD, and without discrimination or delay, to use the same facilities to deliver electricity generated by EBMUD. The bill would authorize EBMUD to elect to designate specific hydroelectric generation facilities owned by EBMUD for the generation of electricity to be delivered to EBMUD, if certain conditions are met and would require EBMUD to pay applicable rates approved by the commission for distribution, or distribution and transmission, or any transmission rates as required under federal law. The bill would require each electrical corporation that owns and operates transmission and distribution facilities that deliver electricity at one or more locations to the EBMUD system, to file an advice letter with the commission that complies with these requirements and the commission, within 150 days of the date of filing of the advice letter, would be required to approve the advice letter or specify conforming changes to be made by the electrical corporation, to be filed in an amended advice letter within 60 days.

~~Existing law requires every electrical corporation to file with the commission a standard tariff for the renewable energy output produced at an electric generation facility, as defined, that, among other things, is an eligible renewable energy resource.~~

~~This bill would require an electrical corporation that owns or controls transmission or distribution facilities, upon request by a water district established in accordance with the Municipal Utility District Act, and, on or before January 1, 2007, capable of generating at least 25% of its annual electrical energy use, to provide self-service wheeling services, as defined, sufficient to enable the water district to wheel power generated by the water district over the transmission or distribution lines of the electrical corporation to serve off-site loads of the water district at facilities that are located within the service area of the electrical corporation. The bill would require the commission to require~~

~~each electrical corporation to establish a standard self-service wheeling tariff.~~

(2) Existing law makes any public utility that ~~violates the act, or that~~ fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the Public Utilities Commission guilty of a crime.

Because a violation of these provisions *or failure to comply with an approved advice letter* would be a crime under existing law, this bill would impose a state-mandated local program *by creating a new crime*.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2829 is added to the Public Utilities Code,
2 to read:

3 2829. (a) For purposes of this section, the following terms
4 have the following meanings:

5 (1) “EBMUD” means the East Bay Municipal Utility District
6 organized and operating pursuant to Division 6 (commencing with
7 Section 10001).

8 (2) “Environmental attributes” associated with the generation
9 of electricity include, the credits, benefits, emissions reductions,
10 environmental air quality credits, and emissions reduction credits,
11 offsets, and allowances, however entitled, resulting from the
12 avoidance of the emissions of any gas, chemical, or other substance
13 attributable to an electricity generation facility.

14 (b) To ensure that no electrical corporation operates its
15 monopoly transmission and distribution system in a manner that
16 impedes the ability of the EBMUD to reduce its electricity costs
17 through the delivery of electricity generated by EBMUD, an
18 electrical corporation shall meet the requirements of this section.

19 (c) Every electrical corporation that owns and operates
20 transmission and distribution facilities that deliver electricity at
21 one or more locations to the EBMUD’s system shall, upon request

1 by EBMUD, and without discrimination or delay, use the same
2 facilities to deliver electricity generated by EBMUD. EBMUD
3 may elect to designate specific hydroelectric generation facilities
4 owned by EBMUD for the generation of electricity to be delivered
5 to EBMUD, if the following conditions are met:

6 (1) The amount of all electricity delivered to the electric grid
7 by the designated EBMUD hydroelectric generation is the property
8 of EBMUD.

9 (2) Ownership and use of the environmental attributes
10 associated with the electricity delivered to the electric grid by
11 EBMUD designated hydroelectric generation is retained by
12 EBMUD.

13 (d) (1) No rule, order, or tariff of the commission implementing
14 direct transactions is applicable to electricity generated by
15 EBMUD, that is delivered to EBMUD for its own use that is
16 transported over the transmission and distribution system of an
17 electrical corporation, pursuant to an election made by EBMUD
18 pursuant to subdivision (c).

19 (2) Sections 365 and 366 are not applicable to electricity
20 generated by EBMUD, that is delivered to EBMUD for its own
21 use that is transported over the transmission and distribution
22 system of an electrical corporation, pursuant to an election made
23 by EBMUD pursuant to subdivision (c).

24 (e) To compensate an electrical corporation for the use of its
25 facilities, EBMUD shall pay applicable rates approved by the
26 commission for distribution, or distribution and transmission, or
27 any transmission rates as required under federal law.

28 (f) On or before January 1, 2009, each electrical corporation
29 that owns and operates transmission and distribution facilities
30 that deliver electricity at one or more locations to the EBMUD
31 system, shall file an advice letter with the commission that complies
32 with this section. The commission, within 150 days of the date of
33 filing of the advice letter, shall approve the advice letter or specify
34 conforming changes to be made by the electrical corporation, to
35 be filed in an amended advice letter within 60 days.

36 (g) The commission shall ensure that the delivery of electricity
37 from EBMUD designated hydroelectric generation to the EBMUD
38 service territory pursuant to this section does not result in a shifting
39 of costs to the bundled service customers of an electrical
40 corporation, either immediately or over time.

1 ~~SECTION 1. Section 331 of the Public Utilities Code is~~
2 ~~amended to read:~~

3 ~~331. The following definitions govern the construction of this~~
4 ~~chapter:~~

5 ~~(a) “Aggregator” means any marketer, broker, public agency,~~
6 ~~city, county, or special district, that combines the loads of multiple~~
7 ~~end-use customers in facilitating the sale and purchase of electric~~
8 ~~energy, transmission, and other services on behalf of these~~
9 ~~customers.~~

10 ~~(b) “Broker” means an entity that arranges the sale and purchase~~
11 ~~of electric energy, transmission, and other services between buyers~~
12 ~~and sellers, but does not take title to any of the power sold.~~

13 ~~(c) “Direct transaction” means a contract between any one or~~
14 ~~more electric generators, marketers, or brokers of electric power~~
15 ~~and one or more retail customers providing for the purchase and~~
16 ~~sale of electric power or any ancillary services.~~

17 ~~(d) “Firewall” means the line of demarcation separating~~
18 ~~residential and small commercial customers from all other~~
19 ~~customers as described in subdivision (e) of Section 367.~~

20 ~~(e) “Marketer” means any entity that buys electric energy,~~
21 ~~transmission, and other services from traditional utilities and other~~
22 ~~suppliers, and then resells those services at wholesale or to an~~
23 ~~end-use customer.~~

24 ~~(f) “Microcogeneration facility” means a cogeneration facility~~
25 ~~of less than one megawatt.~~

26 ~~(g) “Restructuring trusts” means the two tax-exempt public~~
27 ~~benefit trusts established by Decision 96-08-038 of the commission~~
28 ~~to provide for design and development of the hardware and~~
29 ~~software systems for the Power Exchange and the Independent~~
30 ~~System Operator, respectively, and that may undertake other~~
31 ~~activities, as needed, as ordered by the commission.~~

32 ~~(h) “Self-service wheeling” means electric transmission and~~
33 ~~distribution services sufficient to enable an applicant to transport~~
34 ~~the applicant’s own generated electricity, over which the applicant~~
35 ~~exercises ownership, control, or leasehold interest, to delivery~~
36 ~~points that are physically separate and distinct from the applicant’s~~
37 ~~electricity generation or production location.~~

38 ~~(i) “Small commercial customer” means a customer that has a~~
39 ~~maximum peak demand of less than 20 kilowatts.~~

1 ~~SEC. 2.— Section 378.5 is added to the Public Utilities Code, to~~
2 ~~read:~~

3 ~~378.5. (a) The Legislature finds and declares that the pumping~~
4 ~~and transmission of water is a vital component of water service~~
5 ~~and a major share of California's energy usage, and therefore, it~~
6 ~~is the policy of the state to encourage and support the development~~
7 ~~of self-service wheeling of electricity as an efficient use of energy~~
8 ~~resources by California water districts.~~

9 ~~(b) An electrical corporation that owns or controls transmission~~
10 ~~or distribution facilities, upon request by a water district established~~
11 ~~in accordance with Division 6 (commencing with Section 11501),~~
12 ~~and, on or before January 1, 2007, capable of generating at least~~
13 ~~25 percent of its annual electrical energy use, shall provide~~
14 ~~self-service wheeling services sufficient to enable the water district~~
15 ~~to wheel power generated by the water district over the~~
16 ~~transmission or distribution lines of the electrical corporation to~~
17 ~~serve off-site loads of the water district at facilities that are located~~
18 ~~within the service area of the electrical corporation.~~

19 ~~(c) The commission shall require each electrical corporation to~~
20 ~~establish a standard self-service wheeling tariff that sets forth fair~~
21 ~~and reasonable terms and conditions for self-service wheeling~~
22 ~~service, including charges reflecting capital, operation,~~
23 ~~maintenance, and replacement costs, if any, that are directly related~~
24 ~~to the electrical corporation's provision of self-service wheeling~~
25 ~~services. Self-service wheeling charges shall not exceed similar~~
26 ~~charges applicable to direct transactions, and shall not include~~
27 ~~electricity generation-related costs except as provided in~~
28 ~~subdivision (d).~~

29 ~~(d) If an electrical corporation provides self-service wheeling~~
30 ~~services to a retail end-use customer load that previously purchased~~
31 ~~power from an electrical corporation on or after February 1, 2001,~~
32 ~~the electrical corporation may recover reasonable nonbypassable~~
33 ~~charges associated with that load, but not to any additional load~~
34 ~~that may be added at the location in the future, if those~~
35 ~~nonbypassable charges are limited to net above-market procurement~~
36 ~~cost obligations incurred before the date of application for~~
37 ~~self-service wheeling for that load.~~

38 ~~(e) Self-service wheeling customers are exempt from the~~
39 ~~requirements of Article 12 (commencing with Section 394).~~

~~SEC. 3.~~

1 ~~SEC. 2.~~ No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.
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